

1 Philip K. Goldstein, Esq.  
2 Nevada Bar #4275  
3 LAW OFFICES OF PHILIP K. GOLDSTEIN, LTD.  
4 609 South Seventh Street  
5 Las Vegas, NV 89101  
(702) 388-2004  
5 Attorney for Debtor(s)

E-FILED: 8/3/10

6 UNITED STATES BANKRUPTCY COURT

7 DISTRICT OF NEVADA

8  
9 In Re: )  
10 MARCETTA FRAZIER, ) CASE NO. 10-22331 BAM  
11 ) CHAPTER 13  
12 Debtor(s). ) Date of Hearing: 9/9/10  
12 ) Time of Hearing: 3:00 P.M.  
13 \_\_\_\_\_)

14 **MOTION TO VALUE COLLATERAL, "STRIP OFF" AND MODIFY RIGHTS OF**  
**WELLS FARGO HOME MORTGAGE (ACCT #0001)**  
**PURSUANT TO 11 U.S.C. §506(a) AND §1322**

16 Now Comes, MARCETTA FRAZIER (hereinafter the "Debtor"), by and through  
17 her attorney, PHILIP K. GOLDSTEIN, ESQ. of the LAW OFFICES OF PHILIP K.  
18 GOLDSTEIN, LTD., and move this Court pursuant to 11 U.S.C. §506(a), and §1322, and  
19 Bankruptcy Rules 3012 and 9014 and states:

20 **JURISDICTION**

22 The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157.

23 **STATEMENT OF FACTS**

24 1. On June 30, 2010, Debtor filed a Voluntary Petition under Chapter 13, Title 11, of  
25 the United States Code, case number 10-22331 BAM.

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(702) 388-2004 \* (702) 388-2024

1           2. In her petition, Debtor listed her home which is located at 1848 Gentle Dawn  
2 Avenue, N. Las Vegas, Nevada, 89084 (hereinafter referred to as "Home"), with a value of  
3 \$250,000 and a mortgage balance totaling \$439,665.00.

5           3. However, upon further investigation and an actual appraisal, the Home is valued  
6 at \$190,000. (See appraisal attached hereto "Exhibit 1").

7           4. At the time of filing, the "Home" was encumbered by a first mortgage with  
8 WELLS FARGO HOME MORTGAGE (ACCT. #8703). That mortgage has a balance of  
9 \$350,740.00. (See mortgage statement from WELLS FARGO HOME MORTGAGE, attached  
10 hereto and marked as "Exhibit 2").

12           5. On the petition date, Debtor owed money to WELLS FARGO HOME  
13 MORTGAGE (ACCT. #0001) (hereinafter the "CREDITOR WELLS FARGO HOME  
14 MORTGAGE (ACCT. #0001)", identified in Schedule D in Debtor's petition.

16           6. Based on the appraisal (Exhibit 1), the home value of \$190,000, less the first  
17 mortgage balance of \$351,740.00, results in negative equity, or no equity upon which the  
18 "CREDITOR WELLS FARGO HOME MORTGAGE (ACCT. #0001)" claim could attach. (See  
19 Exhibits 1 through 2).

20           8. "CREDITOR WELLS FARGO HOME MORTGAGE (ACCT. #0001)" claim is  
21 wholly unsecured and if the "Home" was sold at auction Creditor would receive nothing.

23           9. Accordingly, the Debtor's request that this Court find that the claim of  
24 "CREDITOR WELLS FARGO HOME MORTGAGE (ACCT. #0001)" is unsecured and should  
25 be reclassified as a general unsecured claim to receive pro rata with other general unsecured  
26 creditors through the Debtor's chapter 13 plan.

LEGAL ARGUMENT

In *In re Zimmer*, 313 F.3d 1220 (9<sup>th</sup> Cir. 2002), the Court stated that a wholly unsecured lien holder's claim can be modified and reclassified as a general unsecured claim pursuant to 11 U.S.C. §506(a), despite the anti-modification language in §1322(b)(2). Specifically, the Court held:

Section 506(a) divides creditors' claims into "secured...claims" and "unsecured claims." Although the conventional interpretation of "secured" might include any claim in which the creditor has a security interest in the debtor's property, § 506(a) makes clear that the status of a claim depends on the valuation of the property. An allowed claim of a creditor secured by a lien on property in which the estate has an interest ... is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property ... and is an unsecured claim to the extent that the value of such creditor's interest ... is less than the amount of such allowed claim

To put it more simply, a claim such as a mortgage is not a "secured claim" to the extent that it exceeds the value of the property that secures it. Under the Bankruptcy Code, "secured claim" is thus a term of art; not every claim that is secured by a lien on property will be considered a "secured claim." Here, it is plain that PSB Lending's claim for the repayment of its loan is an unsecured claim, because its deed of trust is junior to the first deed of trust, and the value of the loan secured by the first deed of trust is greater than the value of the house.

Accordingly, since the claim of "CREDITOR WELLS FARGO HOME MORTGAGE (ACCT. #0001)" is wholly unsecured (in that there is no extant equity above the first mortgage in the home), Your Honor should reclassify said claim to a general unsecured claim to receive pro rata with like unsecured creditors. "CREDITOR WELLS FARGO HOME MORTGAGE (ACCT. #0001)" should also be stripped of its secured rights under State law since no maintainable security interest in the subject property exists.

Further, the debtors are not required to file an adversary proceeding to achieve the requested relief herein. Debtors may bring a motion to "strip off" "CREDITOR WELLS FARGO HOME MORTGAGE (ACCT. #0001)" consensual lien by motion. See *In re Williams*, 166 B.R. 615 (Bankr.E.D.Va.1994), *In re Fuller*, 255 B.R. 300 (Bankr.W.D.Mich.2000), *In re Hoskins*, 262 B.R. 693 (Bankr.E.D.Mich.2001), *In re King*, 290 B.R. 641 (Bankr.C.D.Ill.2003), *In re Millspaugh*, 302 B.R. 90 (Bankr.D.Idaho 2003), *Dickey v. Ben. Fin. (In re Dickey)* 293 B.R. 360 (Bankr.M.D.Pa.2003), *In re Hill*, 304 B.R. 800 (Bankr.S.D.Ohio 2003); *In re Sadala* 294 B.R. 180 (Bankr.M.D.Fla.2003), *In re Fisher*, 289 B.R. 544 (Bankr.W.D.N.Y.2003), *In re Robert*, 313 B.R. 545 (Bankr.N.D.N.Y.2004), *In re Bennett*, 312 B.R. 843 (Bankr.W.D.Ky.2004).

## CONCLUSION

WHEREFORE, Debtor prays as follows:

1. Find that "CREDITOR WELLS FARGO HOME MORTGAGE (ACCT. #0001)" is not a holder of a lien on the home;
  2. Immediately avoid, "Strip off", cancel and extinguish "CREDITOR WELLS FARGO HOME MORTGAGE (ACCT. #0001)" wholly unsecured claim/lien from the home pursuant to 11 U.S.C. Section 506(a);
  3. Reclassify "CREDITOR WELLS FARGO HOME MORTGAGE (ACCT. #0001)" claim as a general unsecured claim to be paid pro rata with other general unsecured creditors through the debtor's chapter 13 plan;
  4. Such other relief the Court finds appropriate.

DATED: This 30<sup>th</sup> day of July, 2010.

LAW OFFICES OF PHILIP K. GOLDSTEIN, LTD.

By: /s/ Philip K. Goldstein

PHILIP K. GOLDSTEIN, ESQ.  
Nevada Bar #4275

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APN: 124-21-416-001  
Philip K. Goldstein, Esq.  
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**Las Vegas, NV 89101**  
**(702) 388-2004**  
**Attorney for Debtor**

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re: MARCETTA FRAZIER, ) CASE NO. 10-22331 BAM  
 ) CHAPTER 13  
 )  
 ) Date of Hearing: 9/9/10  
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)

**PROPOSED ORDER GRANTING DEBTOR'S MOTION TO VALUE COLLATERAL,**  
**"STRIP OFF" AND MODIFY RIGHTS OF WELLS FARGO HOME MORTGAGE**  
**(ACCT. #0001) PURSUANT TO 11 U.S.C. §§506(a) AND §1322**

This matter being heard the 9<sup>th</sup> day of September, 2010, at 3:00 p.m., with PHILIP K. GOLDSTEIN, ESQ., appearing for Debtor, Marcetta Frazier, and Kathleen A. Leavitt appearing as the Chapter 13 Trustee, and pursuant to notice duly given, no opposition being filed by Creditors, and the Court having heard the representation of counsel for Debtor and the Chapter 13 Trustee, and being otherwise informed, and good cause appearing:

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Debtor's Motion is hereby granted.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that WELLS FARGO HOME MORTGAGE (ACCT. #0001) shall retain its lien on the real property commonly known

1 as 1848 Gentle Dawn Avenue, N. Las Vegas, Nevada 89084, until such time as Debtor has  
2 received a Discharge of Debtor After Completion of Chapter 13 Plan.

3 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the secured claim  
4 filed by WELLS FARGO HOME MORTGAGE (ACCT. #0001) shall become an unsecured  
5 claim in Debtor's Bankruptcy.

6 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that nothing alters the  
7 rights of WELLS FARGO HOME MORTGAGE (ACCT. #0001) under a conversion or a  
8 dismissal of this Chapter 13 case.

9  
10 DATED: This \_\_\_\_\_ day of \_\_\_\_\_, 2010.  
11

12 Submitted By:  
13

14 LAW OFFICES OF PHILIP K. GOLDSTEIN, LTD.  
15

16 By: \_\_\_\_\_  
17 PHILIP K. GOLDSTEIN, ESQ.  
18 Nevada Bar #4275  
19 Attorney for Debtor  
20

21 WHEN RECORDED RETURN TO:  
22 PHILIP K. GOLDSTEIN, ESQ.  
23 609 S. 7TH ST.  
24 LAS VEGAS, NV 89101  
25  
26  
27  
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1       **ALTERNATIVE METHOD re: RULE 9021:**

2       In accordance with LR 9021, counsel submitting this document certifies as follows:

3                  The court has waived the requirement of approval under LR 9021.

4                  This is a chapter 7 or 13 case, and either with the motion, or at the hearing, I have  
5                 delivered a copy of this proposed order to all counsel who appeared at the hearing, any  
6                 unrepresented parties who appeared at the hearing, and each has approved or disapproved the  
7                 order, or failed to respond, as indicated below:

8       Trustee: Kathleen Leavitt/ Rick Yarnall- approved/ disapproved/ no response

9       Counsel appearing: \_\_\_\_\_ - approved/ disapproved

10      Unrepresented parties: \_\_\_\_\_ - approved/ disapproved

11                  This is a chapter 9, 11, or 15 case, and I have delivered a copy of this proposed order  
12                 to all counsel who appeared at the hearing, any unrepresented parties who appeared at the  
13                 hearing, and each has approved or disapproved the order, or failed to respond, as indicated below  
14                 [list each party and whether the party has approved, disapproved, or failed to respond to the  
document]:

15                  I certify that I have served a copy of this order with the motion, and no parties  
16                 appeared or filed written objections.

**EXHIBIT 1**

PARKER DRISCOLL APPRAISAL  
702-254-0977

File No. 10-197

APPRAISAL OF



SINGLE FAMILY RESIDENCE

LOCATED AT:

1848 GENTLE DAWN AVENUE  
NORTH LAS VEGAS, NV 89084-2058

CLIENT:

FRAZIER&CO PHILIP L GOLDSTEIN, LTD  
609 SOUTH SEVENTH STREET  
LAS VEGAS, NV 89101

AS OF:

April 14, 2010

BY:

HOLLY HOFMANN  
PARKER DRISCOLL APPRAISAL

PARKER DRISCOLL APPRAISAL  
Residential Appraisal Report

File No. 10-197

The purpose of this appraisal report is to provide the client with a credible opinion of the defined value of the subject property, given the intended use of the appraisal.																																																																																																																	
Client Name/Intended Use FRAZIER/CO PHILIP L GOLDSTEIN, LTD				E-mail FOUR@PKGLTD.COM																																																																																																													
Client Address 609 SOUTH SEVENTH STREET				City LAS VEGAS				State NV		Zip 89101																																																																																																							
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Owner of Public Record FRAZIER, MARCETTA & MCCRAY, MARY								County CLARK																																																																																																									
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PARKER DRISCOLL APPRAISAL  
Residential Appraisal Report

File No. 10-197

FEATURE	SUBJECT	COMPARABLE SALE NO. 1	COMPARABLE SALE NO. 2	COMPARABLE SALE NO. 3
1848 GENTLE DAWN AVENUE	2416 MISTLE THRUSH DR	1839 MOONGLOW PEAK AVE	6101 STARPOINT RD	
Address NORTH LAS VEGAS	NORTH LAS VEGAS	NORTH LAS VEGAS	NORTH LAS VEGAS	
Proximity to Subject	0.59 miles NW	0.11 miles WNW	0.51 miles NE	
Sale Price	\$ N/A	\$ 184,000	\$ 205,500	\$ 190,000
Sale Price/Gross Liv. Area	\$ 0.00 sq. ft.	\$ 85.52 sq. ft.	\$ 89.45 sq. ft.	\$ 64.82 sq. ft.
Data Source(s)	DIRECT RECORDED	COUNTY RECORDS/MLS	COUNTY RECORDS/MLS	COUNTY RECORDS/MLS
Verification Source(s)	EMC	20100308-05088	20091201-01973	20100309-02855
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	ADJUSTMENT	DESCRIPTION
Sale or Financing	CASH	VA		FHA
Concessions	NO CONCESSIONS	0 SLR PD 1%	0	SLR PD 1.5%
Date of Sale/Time	03/08/2010	-3,880	12/01/2009	-16,440
Location	AVERAGE	AVERAGE		AVERAGE
Leasehold/Fee Simple	FEES SIMPLE	FEES SIMPLE		FEES SIMPLE
Size	7841 SQ FT	8534 SQ FT	0 6834 SQ FT	0 7273 SQ FT
View	TYPICAL	TYPICAL		TYPICAL
Design (Style)	2 STORY/AVG	2 STORY/AVG		2 STORY/AVG
Quality of Construction	STU/TIL/AVG	STU/TIL/AVG		STU/TIL/AVG
Actual Age	2005	2005	0 2005	0 1995
Condition	AVERAGE	AVERAGE		AVERAGE
Above Grade	Total Bedr. Bathr.	Total Bedr. Bathr.		Total Bedr. Bathr.
Room Count	10 4 3	8 3 2.5	+1,600	9 4 3
Gross Living Area	2,858 sq. ft.	2,881 sq. ft.	0	2,959 sq. ft.
Basement & Finished	NONE	NONE		NONE
Rooms Below Grade	MLS# N/A	MLS# 1003739 DOM 13	REQ	MLS# 1003739 DOM 120
Functional Utility	AVERAGE	AVERAGE		AVERAGE
Heating/Cooling	FWAC, REF	FWAC, REF		FWAC, REF
Energy Efficient Items	AVERAGE	AVERAGE		AVERAGE
Garage/Carport	3-GARAGE	3-GARAGE		4-GARAGE
Porch/Patio/Deck	PORCH/PATIO	PORCH/PATIO		PORCH/PATIO
	N POOL/N SPA	N POOL/N SPA		POOL/SPA
				-15,000
Net Adjustment (Total)		□ + X - \$ 2,380	□ + X - \$ 16,440	□ + X - \$ 21,300
Adjusted Sale Price	Net Adj. -1.2%	Net Adj. -6.0%	Net Adj. -11.2%	
of Comparables	Gross Adj. 2.8% \$ 181,820	Gross Adj. 8.0% \$ 189,060	Gross Adj. 11.2% \$ 166,700	

Summary of Sales Comparison Approach: THE APPRAISER IS LIMITED IN THE SELECTION OF COMPARABLE SALES THAT ARE VERIFIABLE IN THE MARKET PLACE. TYPICAL BUYERS IN THE SUBJECT PRICE RANGE IN THIS LOCALITY WILL CONSIDER AND COMPARE HOMES WITHIN SEVERAL MILES FROM THE SUBJECT PROPERTY. ALL SELECTED COMPARABLES ARE IN THE SUBJECT'S COMPETITIVE MARKET AREA. THE SELECTED SALES WERE THE BEST INDICATORS IN VALUE AND MOST COMPARABLE TO THE SUBJECT.

Site Value Comments: N/A

ESTIMATED	REPRODUCTION OR	REPLACEMENT COST NEW	OPINION OF SITE VALUE
Source of cost data: N/A		Owning	2,959 Sq Ft @ \$
Quality rating from cost service: N/A	Effective date of cost data: N/A		Sq Ft @ \$
Comments on Cost Approach (gross living area calculations, depreciation, etc.)			
N/A	Garage/Carport 622 Sq Ft @ \$		0
	Total Estimate of Cost New		0
	Less Physical Functional External		
	Depreciation		-\$ 0
	Deducted Cost of Improvements		-\$ 0
	"As-Is" Value of Site Improvements		-\$ 0
	INDICATED VALUE BY COST APPROACH		-\$ 0

Estimated Monthly Market Rent \$ N/A X Gross Rent Multiplier N/A = \$ N/A Indicated Value by Income Approach

Summary of Income Approach (including support for market rent and GRM) N/A

Indicated Value by Sales Comparison Approach \$ 190,000 Cost Approach (if developed) \$ N/A Income Approach (if developed) \$ N/A

THE SALES COMPARISON APPROACH PROVIDES THE MOST DEFENSIBLE METHOD OF DETERMINING VALUE FOR SINGLE FAMILY RESIDENTIAL PROPERTIES. THE COST APPROACH HAS NO BEARING ON FINAL CONCLUSION. THE INCOME APPROACH LACKS SUFFICIENT DATA TO JUSTIFY VALUE.

This appraisal is made  "as is,"  subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed.

subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed.

subject to the following:

THIS IS A GENERAL PURPOSE APPRAISAL REPORT, FORM GPAP1004 INTERIOR/EXTERIOR APPRAISAL SUMMARY REPORT FOR THE SOLE AND EXCLUSIVE USE OF THE CLIENT; THERE ARE NO ADDITIONAL INTENDED USERS OF THIS APPRAISAL/SUMMARY REPORT. SUBJECT TO THE REQUIRED INSPECTIONS BY LICENSED EXPERTS AND REMEDIATION, IF REQUIRED.

Based on the scope of work, assumptions, limiting conditions and appraiser's certification, my [our] opinion of the defined value of the real property

that is the subject of this report is \$ 190,000 as of 04/14/2010 which is the effective date of this appraisal.

PARKER DRISCOLL APPRAISAL  
Residential Appraisal Report

File No. 10-197

FEATURE	SUBJECT	COMPARABLE SALE NO. 4	COMPARABLE SALE NO. 5	COMPARABLE SALE NO. 6			
Address	NORTH LAS VEGAS	1101 GREY HOLLOW AVE NORTH LAS VEGAS	5812 WILLOWCREEK RD NORTH LAS VEGAS	2213 SADDLEBELL CT NORTH LAS VEGAS			
Proximity to Subject		0.98 miles SSE	0.98 miles SE	0.98 miles NW			
Sale Price	\$ N/A	\$ 200,000	\$ 199,900	\$ 194,900			
Sale Price/Gross Lst. Area	\$ 0.00 sq. ft.	\$ 64.41 sq. ft.	\$ 64.28 sq. ft.	\$ 67.72 sq. ft.			
Data Source(s)	TAKE HOME MARKET COUNTY RECORDS/MLS	COUNTY RECORDS/MLS	COUNTY RECORDS/MLS				
Verification Source(s)	DEEDS 20100309-02088	LISTING	PENDING				
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	DESCRIPTION	DESCRIPTION			
Sale or Financing Concessions	FHA SLR PD 3%	LISTING LISTING	PENDING PENDING				
Date of Sale/Time	03/09/2010	-4,000	LISTING	COMMENT			
Location	AVERAGE	AVERAGE	AVERAGE	COMMENT			
Leasehold/Fee Simple	FEES SIMPLE	FEES SIMPLE	FEES SIMPLE	FEES SIMPLE			
Site	7841 SQ FT	10450 SQ FT	0 11220 SQ FT	0 5663 SQ FT			
View	TYPICAL	TYPICAL	TYPICAL	TYPICAL			
Design (Style)	2 STORY/AVG	2 STORY/AVG	2 STORY/AVG	2 STORY/AVG			
Quality of Construction	STUCCO/AVG	STUCCO/AVG	STUCCO/AVG	STUCCO/AVG			
Actual Age	2005	1990	0 1990	0 2005			
Condition	AVERAGE	AVERAGE	AVERAGE	AVERAGE			
Above Grade Room Count	Total Bedr. Bath	Total Bedr. Bath	Total Bedr. Bath	Total Bedr. Bath			
Gross Living Area	10 4 3	9 4 3	0 8 4 3	0 9 4 3			
Basement & Finished Rooms Below Grade	2,959 sq. ft.	3,106 sq. ft.	-2,190	3,105 sq. ft.	-2,190	2,878 sq. ft.	0
Functional Utility	NONE	NONE	NONE	NONE			
Heating/Cooling	FHWAC, REF	FHWAC, REF	FHWAC, REF	FHWAC, REF			
Energy Efficient Items	AVERAGE	AVERAGE	AVERAGE	AVERAGE			
Garage/Carport	3-GARAGE	3-GARAGE	3-GARAGE	2-GARAGE	+2,500		
Porch/Patio/Deck	PORCH/PATIO	PORCH/PATIO	PORCH/PATIO	PORCH/PATIO			
In Pool/In Spa	POOL/SPA	POOL/SPA	-15,000	POOL/SPA	-15,000	IN POOL/IN SPA	
Net Adjustment (Total)	<input checked="" type="checkbox"/> + \$ 21,190	<input type="checkbox"/> - \$ 17,190	<input type="checkbox"/> + \$ 2,500				
Adjusted Sale Price of Comparables	Net Adj. -10.6% Gross Adj. 10.6%	Net Adj. -8.6% Gross Adj. 8.8%	Net Adj. 1.3% Gross Adj. 1.3%				
<b>Summary of Sales Comparison Approach</b> THE APPRAISAL IS BASED ON THE INFORMATION GATHERED BY THE APPRAISER FROM PUBLIC RECORDS, OTHER IDENTIFIED SOURCES, INSPECTION OF THE SUBJECT PROPERTY AND NEIGHBORHOOD AND SELECTION OF COMPARABLE SALES WITHIN THE SUBJECT MARKET AREA. THE ORIGINAL SOURCE OF THE COMPARABLE IS SHOWN IN THE 'DATA SOURCE' SECTION OF THE MARKET GRID ALONG WITH THE SOURCE OF CONFIRMATION, IF AVAILABLE. THE ORIGINAL SOURCE IS PRESENTED FIRST. THE SOURCES AND DATA ARE CONSIDERED RELIABLE. WHEN CONFLICTING INFORMATION IS PROVIDED THE SOURCE DEEMED MOST RELIABLE HAS BEEN USED. DATA BELIEVED TO BE UNRELIABLE HAS NOT BEEN INCLUDED IN THE REPORT OR USED AS A BASIS FOR THE VALUE CONCLUSION.							
<b>PHYSICAL DEPRECIATION</b> IS BASED ON THE ESTIMATED EFFECTIVE AGE OF THE SUBJECT PROPERTY AND STANDARD RATES OF DEPRECIATION WITHIN THE LOCAL MARKET. FUNCTIONAL AND/OR EXTERNAL DEPRECIATION, IF PRESENT, ARE SPECIFICALLY ADDRESSED IN THE APPRAISAL REPORT OR ADDENDUM.							
<b>LEGAL ACTION</b> IT IS NOT KNOWN BY THIS APPRAISER IF THERE IS ANY PENDING LEGAL ACTION AGAINST THIS BUILDER. IT IS BELIEVED THAT THERE IS NONE. HOWEVER, THIS APPRAISER AND/OR OFFICE WILL NOT BE HELD RESPONSIBLE IF ANY INFORMATION HAS BEEN WITHHELD. IT IS THIS APPRAISERS OPINION THAT THE WORKMANSHIP IS CONSISTENT WITH OTHER HOMES IN THIS AREA. ADDITIONALLY, THERE WERE NO OBVIOUS DEFICIENCIES NOTED AT THE TIME OF INSPECTION.							
<b>PERMITS</b> IN ADDITION, THE APPRAISER MAKES NO WARRANTIES AS TO THE OWNER'S ATTAINMENT OF PERMITS FOR ANY MODIFICATIONS TO THE SUBJECT PROPERTY AND ACCEPTS NO LIABILITY FOR ANY NON DISCLOSURE.							
<b>PERSONAL PROPERTY</b> NO VALUE WAS GIVEN TO PERSONAL PROPERTY.							
<b>BANK ACTIVITY</b> BANK ACTIVITY ACCOUNTS FOR 73% OF COMPARABLE TRANSFERS FOR THE PRIOR 12 MONTHS AND 79% OF CURRENT COMPARABLE ACTIVE LISTINGS AND PENDING SALES.							
<b>COUNTY RECORDS</b> COUNTY RECORDS REFLECT PREVIOUS OWNER AND CURRENT OWNER. THEREFORE, SHORT SALE TRANSFERS MAY APPEAR TO BE OPEN MARKET. THE TRANSFERS ALSO INCLUDE PRIVATE TRANSFER ACTIVITY WHICH IS NOT INCLUDED IN THE MLS DATA PRESENTED. FURTHER, COUNTY RECORDS MAY NOT REFLECT THE MOST RECENT CLOSED MLS TRANSFERS DUE TO THE DELAY IN RECORDING.							
<b>REO/SHORT SALES</b> REO/SHORT SALES HAVE BEEN UTILIZED IN THE PREPARATION OF THIS REPORT DUE TO THE FACT THEY ARE DRIVING THE MARKET.							
<b>COMPARABLE #5</b> COMPARABLE #5 IS A LISTING. THIS COMPARABLE WAS USED BECAUSE IT IS SIMILAR IN GROSS LIVING AREA, AND, STYLE AND IS A GOOD INDICATOR OF VALUE. NO WEIGHT HAS BEEN GIVEN TO THIS COMPARABLE DUE TO THE FACT IT IS A LISTING.							
<b>COMPARABLE #6</b> COMPARABLE #6 IS A PENDING SALE. THIS COMPARABLE WAS USED BECAUSE IT IS SIMILAR IN GROSS LIVING AREA AND, STYLE AND IS A GOOD INDICATOR OF VALUE. NO ADJUSTMENTS FOR SALES TO LIST PRICE RATIO HAVE BEEN MADE DUE TO THE FACT THIS THE CONTRACTED PRICE IS LISTED IN THE MLS. NO WEIGHT HAS BEEN GIVEN TO THIS COMPARABLE DUE TO THE FACT IT IS A PENDING SALE.							
<b>LOW TO HIGH RANGE OF COMPARABLE ADJUSTED SALES PRICES</b> IS GREATER THAN 20% OF INDICATED VALUE BY SALES COMPARISON APPROACH. THIS IS DUE TO BANK ACTIVITY WITHIN THE MARKET AREA.							

### Scope of Work, Assumptions and Limiting Conditions

Scope of work is defined in the Uniform Standards of Professional Appraisal Practice as "the type and extent of research and analyses in an assignment." In short, scope of work is simply what the appraiser did and did not do during the course of the assignment. It includes, but is not limited to: the extent to which the property is identified and inspected; the type and extent of data researched; the type and extent of analyses applied to arrive at opinions or conclusions.

The scope of this appraisal and ensuing discussion in this report are specific to the needs of the client, other identified intended users and to the intended use of the report. This report was prepared for the sole and exclusive use of the client and other identified intended users for the identified intended use and its use by any other parties is prohibited. The appraiser is not responsible for unauthorized use of the report.

The appraiser's certification appearing in this appraisal report is subject to the following conditions and to such other specific conditions as are set forth by the appraiser in the report. All extraordinary assumptions and hypothetical conditions are stated in the report and might have affected the assignment results.

1. The appraiser assumes no responsibility for matters of a legal nature affecting the property appraised or title thereto, nor does the appraiser render any opinion as to the title, which is assumed to be good and marketable. The property is appraised as though under responsible ownership.
2. Any sketch in the report may show approximate dimensions and is included only to assist the reader in visualizing the property. The appraiser has made no survey of the property.
3. The appraiser is not required to give testimony or appear in court because of having made the appraisal with reference to the property in question, unless arrangements have been previously made thereto.
4. Neither all, nor any part of the content of this report, copy or other media thereof (including conclusions as to the property value, the identity of the appraiser, professional designations, or the firm with which the appraiser is connected), shall be used for any purposes by anyone but the client and other intended users as identified in this report, nor shall it be conveyed by anyone to the public through advertising, public relations, news, sales, or other media, without the written consent of the appraiser.
5. The appraiser will not disclose the contents of this appraisal report unless required by applicable law or as specified in the Uniform Standards of Professional Appraisal Practice.
6. Information, estimates, and opinions furnished to the appraiser, and contained in the report, were obtained from sources considered reliable and believed to be true and correct. However, no responsibility for accuracy of such items furnished to the appraiser is assumed by the appraiser.
7. The appraiser assumes that there are no hidden or unapparent conditions of the property, subsols, or structures, which would render it more or less valuable. The appraiser assumes no responsibility for such conditions, or for engineering or testing, which might be required to discover such factors. This appraisal is not an environmental assessment of the property and should not be considered as such.
8. The appraiser specializes in the valuation of real property and is not a home inspector, building contractor, structural engineer, or similar expert, unless otherwise noted. The appraiser did not conduct the intensive type of field observations of the land intended to seek and discover property defects. The viewing of the property and any improvements is for purposes of developing an opinion of the defined value of the property, given the intended use of this assignment. Statements regarding condition are based on surface observations only. The appraiser claims no special expertise regarding issues including, but not limited to: foundation settlement, basement moisture problems, wood destroying (or other) insects, pest infestation, radon gas, lead based paint, mold or environmental issues. Unless otherwise indicated, mechanical systems were not activated or tested.

This appraisal report should not be used to disclose the condition of the property as it relates to the presence/absence of defects. The client is invited and encouraged to employ qualified experts to inspect and address areas of concern. If negative conditions are discovered, the opinion of value may be affected.

Unless otherwise noted, the appraiser assumes the components that constitute the subject property (improvements) are fundamentally sound and in working order.

Any viewing of the property by the appraiser was limited to readily observable areas. Unless otherwise noted, attics and crawl space areas were not accessed. The appraiser did not move furniture, floor coverings or other items that may restrict the viewing of the property.

9. Appraisals involving hypothetical conditions related to completion of new construction, repairs or alteration are based on the assumption that such completion, alteration or repairs will be competently performed.

10. Unless the intended use of this appraisal specifically includes issues of property insurance coverage, this appraisal should not be used for such purposes. Reproduction or replacement cost figures used in the cost approach are for valuation purposes only, given the intended use of the assignment. The Definition of Value used in this assignment is unlikely to be consistent with the definition of Insurable Value for property insurance coverage.

11. The AIC General Purpose Appraisal Report (GPAR™) is not intended for use in transactions that require a Fannie Mae 1004/Freddie Mac 70 form, also known as the Uniform Residential Appraisal Report (URAR).

### Additional Comments Related To Scope Of Work, Assumptions and Limiting Conditions

**THE PURPOSE OF THIS APPRAISAL REPORT IS TO PROVIDE THE CLIENT WITH A CREDIBLE OPINION OF VALUE OF THE SUBJECT PROPERTY, FOR THE SOLE AND EXCLUSIVE USE OF THE CLIENT, THERE ARE NO ADDITIONAL INTENDED USERS OF THIS APPRAISAL/SUMMARY REPORT.**

**Appraiser's Certification**

The appraiser(s) certifies that, to the best of the appraiser's knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are the appraiser's personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. Unless otherwise stated, the appraiser has no present or prospective interest in the property that is the subject of this report and has no personal interest with respect to the parties involved.
4. The appraiser has no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. The appraiser's engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. The appraiser's compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value than favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. The appraiser's analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
8. Unless otherwise noted, the appraiser has made a personal inspection of the property that is the subject of this report.
9. Unless noted below, no one provided significant real property appraisal assistance to the appraiser signing this certification. Significant real property appraisal assistance provided by: N/A

**Additional Certifications:**

N/A

Definition of Value:  Market Value  Other Value: \_\_\_\_\_

Source of Definition: FANNIE MAE FORM 1004 MARCH 2005

**DEFINITION OF MARKET VALUE**

THE MOST PROBABLE PRICE WHICH A PROPERTY SHOULD BRING IN A COMPETITIVE AND OPEN MARKET UNDER ALL CONDITIONS REQUISITE TO A FAIR SALE, THE BUYER AND SELLER, EACH ACTING PRUDENTLY, KNOWLEDGEABLY AND ASSUMING THE PRICE IS NOT AFFECTED BY UNDUE STIMULUS. IMPLICIT IN THIS DEFINITION IS THE CONSUMMATION OF A SALE AS OF A SPECIFIED DATE AND THE PASSING OF TITLE FROM SELLER TO BUYER UNDER CONDITIONS WHEREBY: (1) BUYER AND SELLER ARE TYPICALLY MOTIVATED; (2) BOTH PARTIES ARE WELL INFORMED OR WELL ADVISED, AND EACH ACTING IN WHAT HE OR SHE CONSIDERS HIS OR HER OWN BEST INTEREST; (3) A REASONABLE TIME IS ALLOWED FOR EXPOSURE IN THE OPEN MARKET; (4) PAYMENT IS MADE IN TERMS OF CASH IN US DOLLARS OR IN TERMS OF FINANCIAL ARRANGEMENTS COMPARABLE THERETO; AND (5) THE PRICE REPRESENTS THE NORMAL CONSIDERATION FOR THE PROPERTY SOLD UNAFFECTED BY SPECIAL OR CREATIVE FINANCING OR SALES CONCESSIONS GRANTED BY ANYONE ASSOCIATED WITH THE SALE.

THE PURPOSE OF THIS APPRAISAL REPORT IS TO PROVIDE THE CLIENT WITH A CREDIBLE OPINION OF THE VALUE OF THE SUBJECT PROPERTY, FOR THE SOLE AND EXCLUSIVE USE OF THE CLIENT, THERE ARE NO ADDITIONAL INTENDED USERS OF THIS APPRAISAL SUMMARY REPORT.

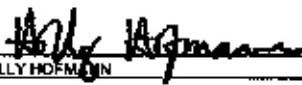
**ADDRESS OF THE PROPERTY APPRAISED:**

1848 GENTLE DAWN AVENUE

NORTH LAS VEGAS, NV 89064-2056

EFFECTIVE DATE OF THE APPRAISAL: April 14, 2010

APPRaised VALUE OF THE SUBJECT PROPERTY \$ 190,000

**APPRAISER**Signature: 

Name: HOLLY HOFMANN

State Certification #

or License # A-0206788-JNT

or Other (describe): \_\_\_\_\_ State #: \_\_\_\_\_

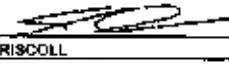
State: NV

Expiration Date of Certification or License: 08/31/2009

Date of Signature and Report: 04/20/2010

Date of Property Viewing: 04/14/2010

Degree of property viewing:

 Interior and Exterior Exterior Only Did not personally view**SUPERVISORY APPRAISER**Signature: 

Name: JAMES DRISCOLL

State Certification # A-0006362-CR

or License # A-0006362-CR

State: NV

Expiration Date of Certification or License: 12/31/2011

Date of Signature: 04/20/2010

Date of Property Viewing:

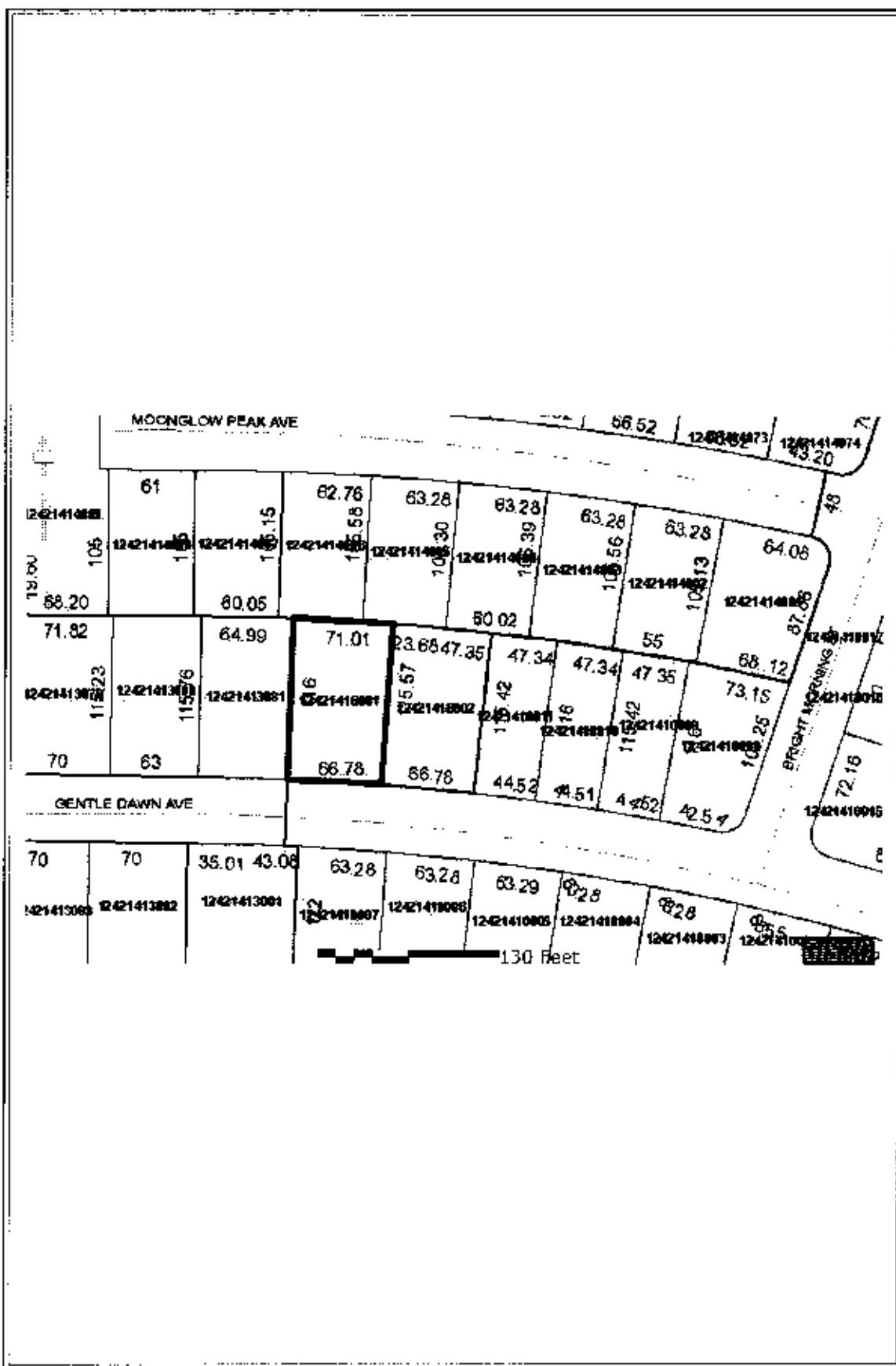
Degree of property viewing:

 Interior and Exterior

Did not personally view

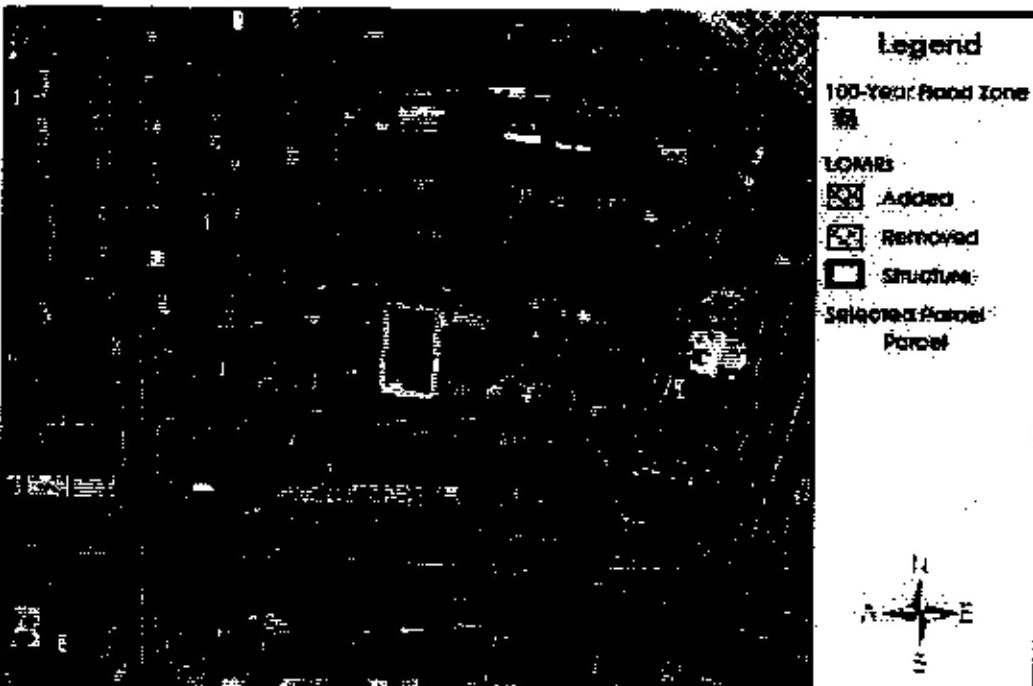
## PLAT MAP

Client: FRAZIER/CO PHILIP L GOLDSTEIN, LTD	File No.: 10-197
Property Address: 1848 GENTLE DAWN AVENUE	Case No.:
City: NORTH LAS VEGAS	State: NV Zip: 89064-2058



FLOOD MAP

Client: FRAZIER/C/O PHILIP L GOLDSTEIN, LTD.	File No.: 10-197
Property Address: 1848 GENTLE DAWN AVENUE	Case No.:
City: NORTH LAS VEGAS	State: NV Zip: 89064-2058



The District makes no warranties concerning the accuracy of this data.

This parcel IS NOT in a 100-year flood zone.

Parcel 12421416001

Owner FRAZIER, MARCETTA

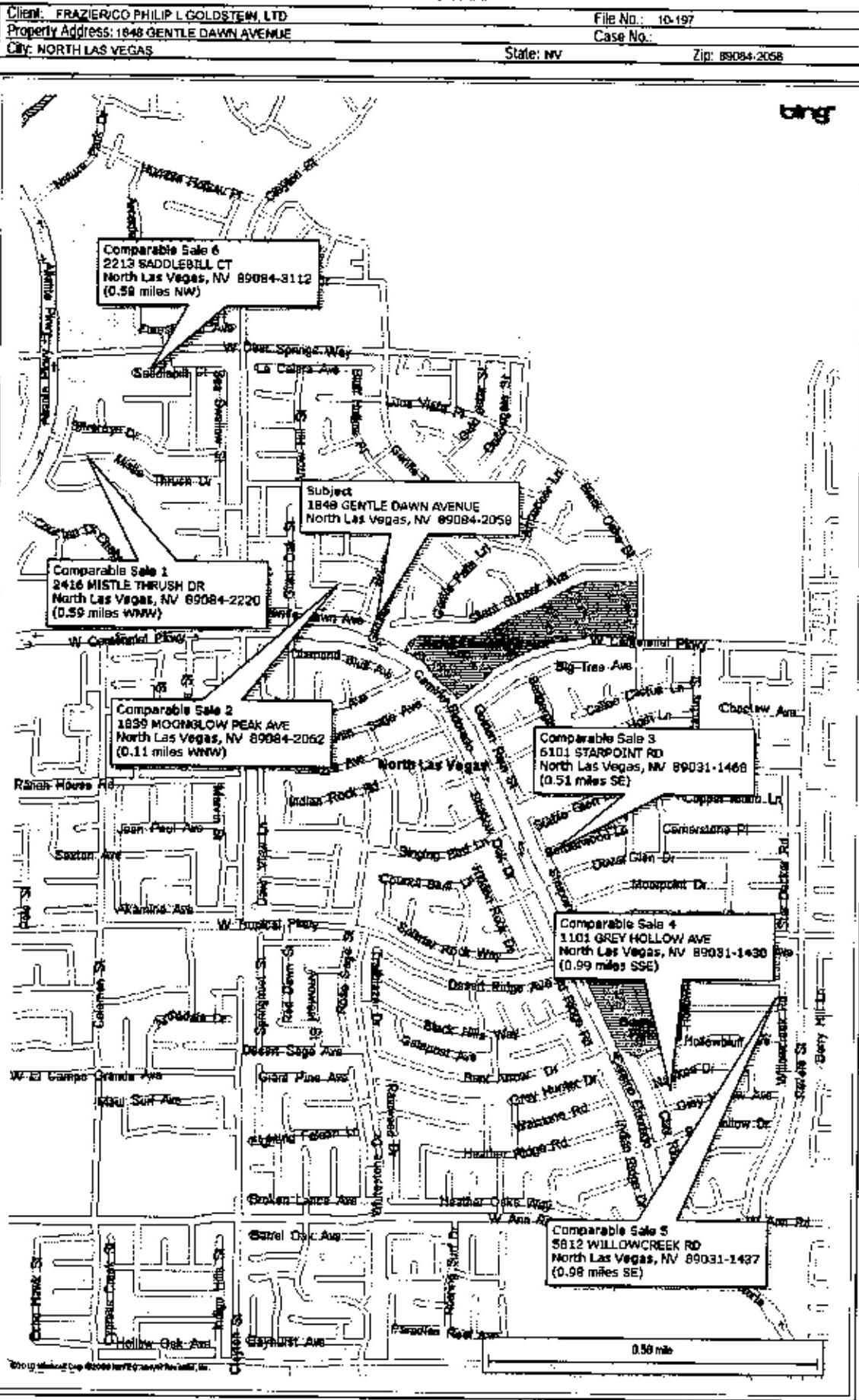
Address 1848 GENTLE DAWN

Entity North Las Vegas

Contact 702-633-1912

Flood Zone This parcel IS NOT in a 100-year flood zone.

## LOCATION MAP

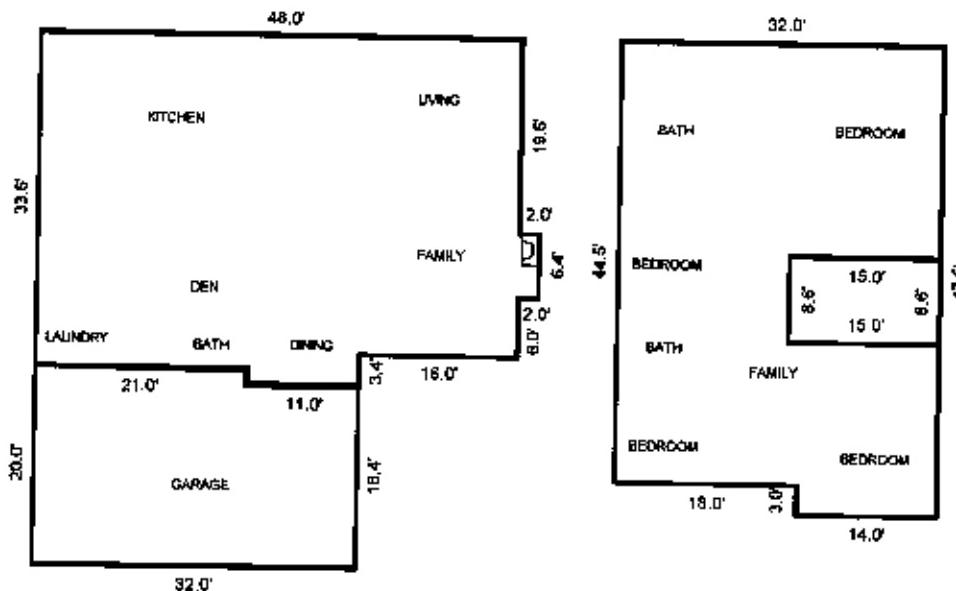


## FLOORPLAN

Client: FRAZIER/CO PHILIP L GOLDSTEIN, LTD  
 Property Address: 1848 GENTLE DAWN AVENUE  
 City: NORTH LAS VEGAS

File No.: 10-197  
 Case No.:

State: NV Zip: 89064-2059

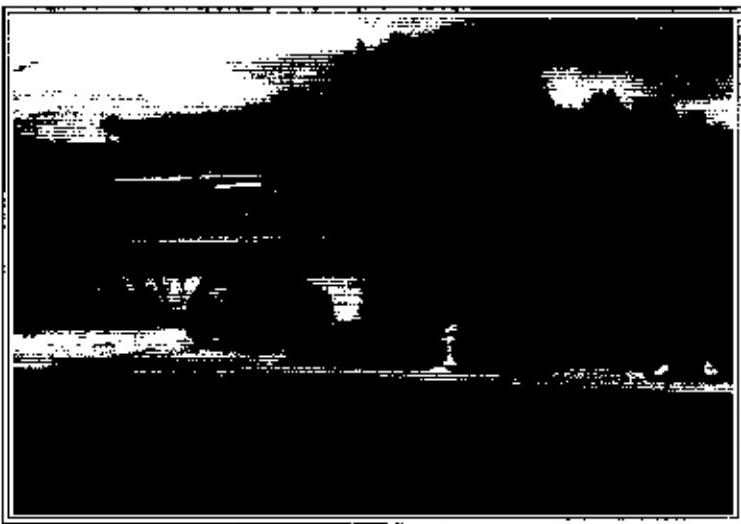


Comments: \_\_\_\_\_

AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	1621.9	1621.9
GLA2	Second Floor	1466.0	1466.0
	Second Floor	-129.0	1337.0
GAR	Garage	622.4	622.4

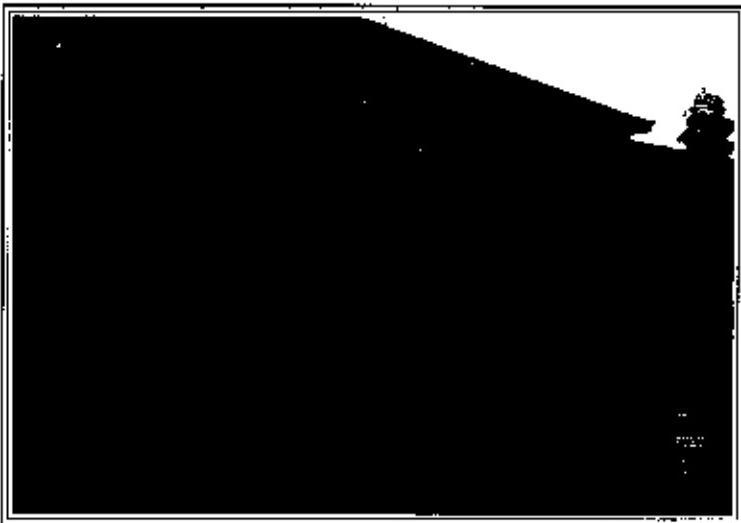
LIVING AREA BREAKDOWN			
	Breakdown		Subtotal
First Floor	2.0 x 6.4	12.8	
	0.5 x 21.0 x 0.2	2.1	
	1.9 x 11.0	19.8	
	32.0 x 33.6	1075.2	
	16.0 x 32.0	512.0	
Second Floor	32.0 x 44.5	1424.0	
	3.0 x 14.0	42.0	
	9.6 x 15.0	-129.0	

SUBJECT PROPERTY PHOTO ADDENDUM		File No.: 10-197	Case No.:
Client: FRAZIER&CO PHILIP L GOLDSTEIN LTD.	Property Address: 1848 GENTLE DAWN AVENUE	State: NV	Zip: 89084-2059



FRONT VIEW OF  
SUBJECT PROPERTY

Appraised Date: April 14, 2010  
Appraised Value: \$ 190,000



REAR VIEW OF  
SUBJECT PROPERTY



STREET SCENE

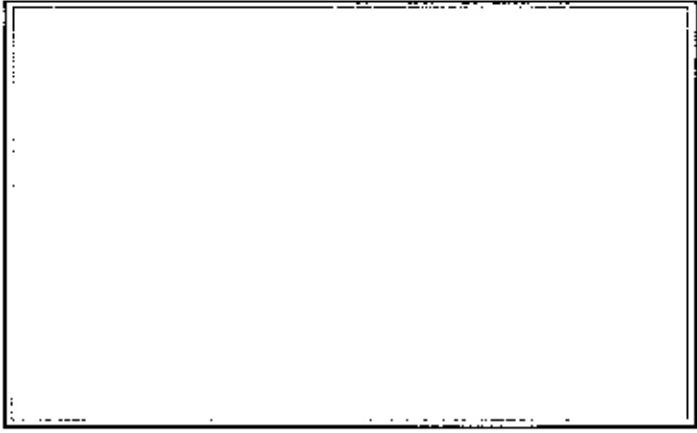
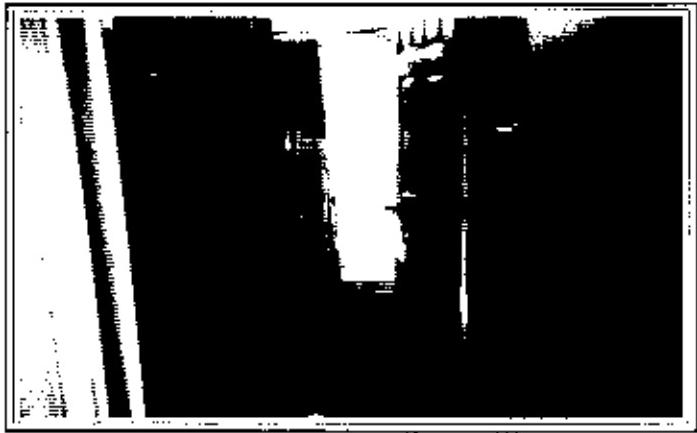
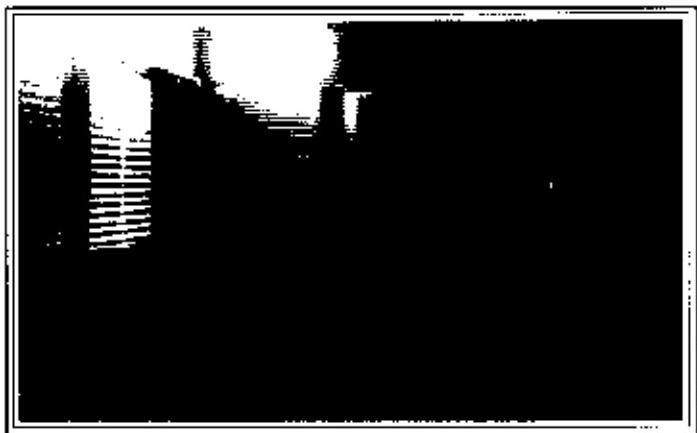
Borrower: NON LENDING  
Property Address: 1848 GENTLE DAWN AVENUE  
City: NORTH LAS VEGAS  
Lender: FRAZIER/CO PHILIP L GOLDSTEIN, LTD

File No.: 10-197

Case No.:

State: NV

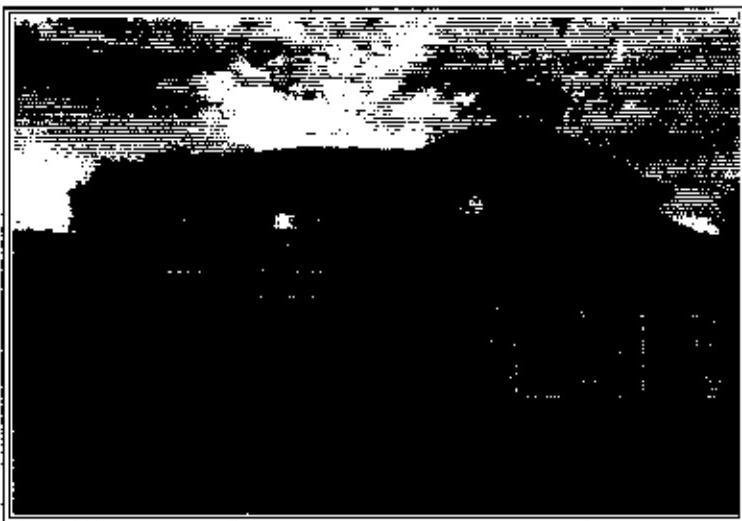
Zip: 89084-2058



Client: FRAZIER&CO PHILIP L GOLDSTEIN, LTD.  
Property Address: 1848 GENTLE DAWN AVENUE  
City: NORTH LAS VEGAS

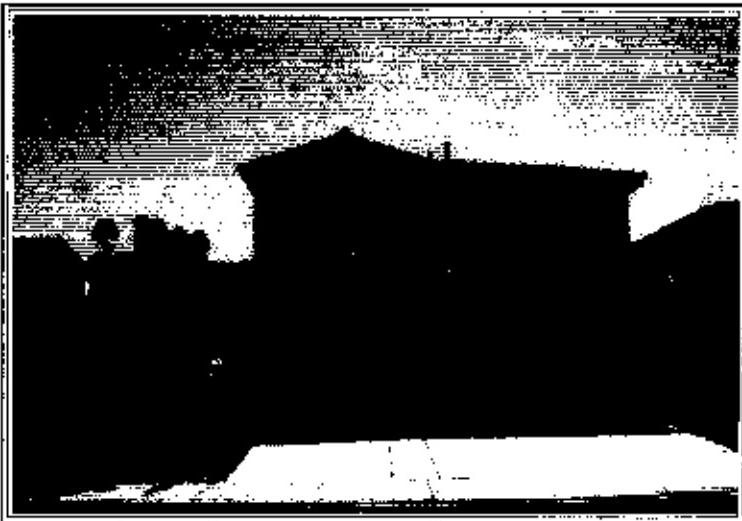
COMPARABLE PROPERTY PHOTO ADDENDUM

File No.: 10-197  
Case No.:  
State: NV Zip: 89064-2056



COMPARABLE SALE #1

2416 MISTLE THRUSH DR  
NORTH LAS VEGAS  
Sale Date: 03/09/2010  
Sale Price: \$ 194,000



COMPARABLE SALE #2

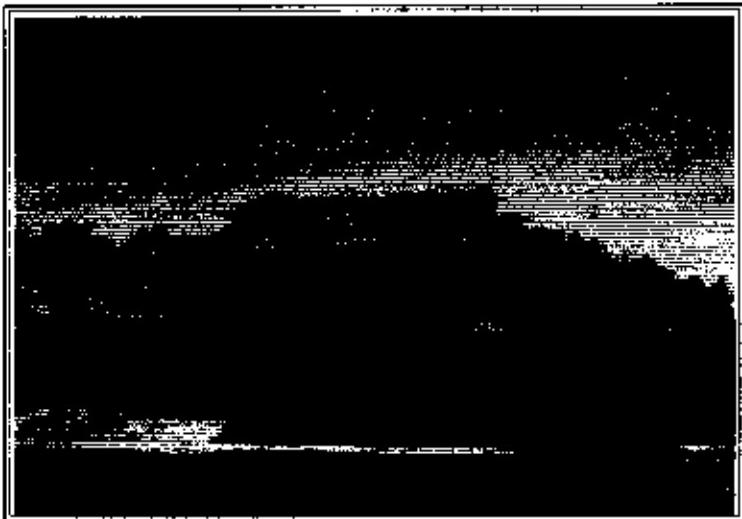
1839 MOONGLOW PEAK AVE  
NORTH LAS VEGAS  
Sale Date: 12/01/2009  
Sale Price: \$ 205,500



COMPARABLE SALE #3

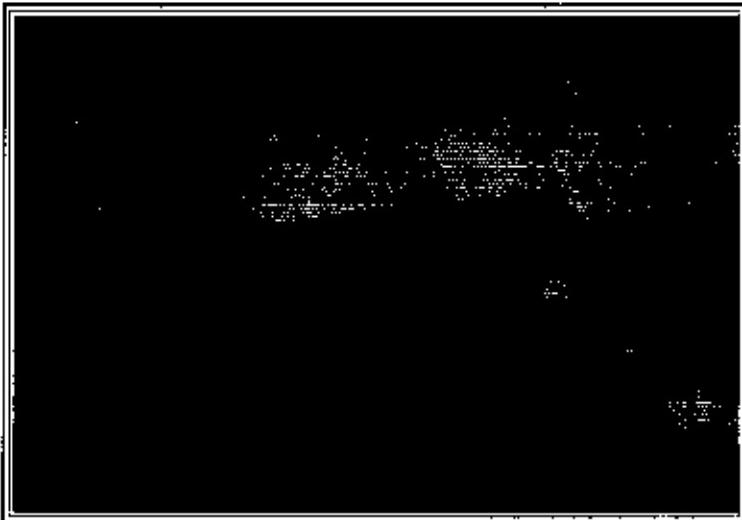
6101 STARPOINT RD  
NORTH LAS VEGAS  
Sale Date: 03/09/2010  
Sale Price: \$ 190,000

Client: FRAZIER/CO PHILIP L GOLDSTEIN, LTD	File No.: 10-197
Property Address: 1846 GENTLE DAWN AVENUE	Case No.:
City: NORTH LAS VEGAS	State: NV Zip: 89004-2058



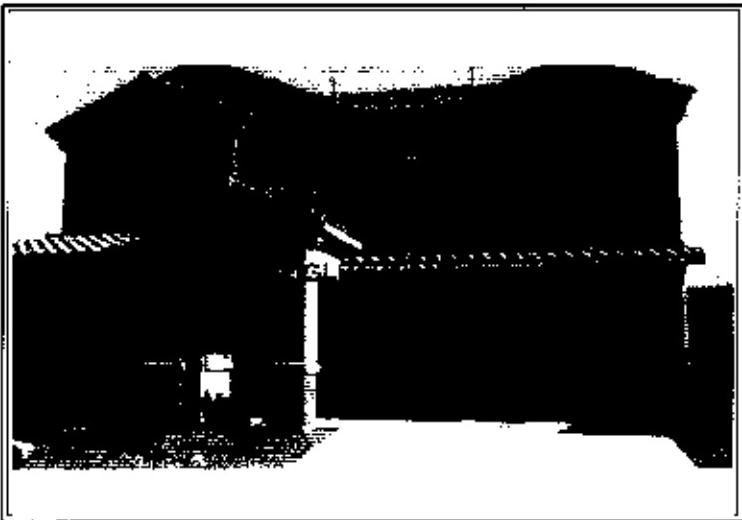
COMPARABLE SALE #4

1101 GREY HOLLOW AVE  
NORTH LAS VEGAS  
Sale Date: 03/09/2010  
Sale Price: \$ 200,000



COMPARABLE SALE #5

5812 WILLOWCREEK RD  
NORTH LAS VEGAS  
Sale Date: LISTING  
Sale Price: \$ 199,900



COMPARABLE SALE #6

2213 SADDLEBELL CT  
NORTH LAS VEGAS  
Sale Date: PENDING  
Sale Price: \$ 194,900

**EXHIBIT 2**

HOME  
MORTGAGEReturn Mail Operations  
PO Box 14411  
Des Moines, IA 50306-3411

1 AT 4023/004023/004023 016 01 AGNIJF 708  
**MARCETTA FRAZIER EDWARDS**  
 1848 GENTLE DAWN AVENUE  
 NORTH LAS VEGAS NV 89084-2058

**Summary**

Payment (Principal and/or Interest, Escrow)	\$2,138.38
Optional Product(s)	\$0.00
<b>Current Monthly Payment 07/01/10</b>	<b>\$2,138.38</b>
Overdue Payments 06/01/10	\$2,138.38
Unpaid Late Charge(s)	\$86.10
Other Charges	\$50.00
<b>TOTAL PAYMENT DUE 07/01/10</b>	<b>\$4,412.86</b>

## Property Address:

1848 GENTLE DAWN AVENUE  
NORTH LAS VEGAS NV 89084

Unpaid Principal Balance \$351,740.00

(Contact Customer Service for your payoff balance)

Interest Rate 5.875%

Interest Paid Year-to-Date \$8,610.30

Taxes Paid Year-to-Date \$751.08

Escrow Balance \$2,057.55

**Activity Since Your Last Statement**

Date	Description	Total	Principal	Interest	Escrow	Late Charge	Other
06/17	PMT REVERSAL	\$1,722.06	\$416.32				
06/17	LATE FEE				\$86.10-		

Late charges are assessed after the close of business on the assessment date and only after all payments received have been applied.

**Important Messages**

Our records indicate your monthly payment is delinquent and a late charge has been assessed. In the future, please make your payment on or before the due date to avoid late charges and adverse credit bureau reporting. If your payment has been sent, please disregard this notice.

This is not your normal billing statement. This statement has been generated as a result of an item being returned by your bank. If you have any questions, please contact us at the number listed above. To continue your electronic withdrawals without interruption, you may submit a replacement check in the enclosed envelope or use one of the payment options listed on the back of this statement.

004023/004023 AGNIJF 4023 ETM1C001 1

Please detach and return with your payment

Loan Number	0077438703
Current Monthly Payment Due	\$2,138.38
Total Payment Due 07/01/10	\$4,412.86
After 07/16/10 Add Late Fee	\$86.10
Total Amount Due After 07/16/10	\$4,498.96

Monthly Payment  x pmt amt \$Additional  Principal \$Late  Charges \$Other  Charges \$Additional  Escrow \$Check here and see  
reverse for address  
correction.

MARCETTA FRAZIER EDWARDS

4023/004023/004023 016 01 AGNIJF 708

Please specify  
additional funds.  
Any additional  
funds not  
specified will be  
applied first to  
any outstanding  
charges



WELLS FARGO HOME MORTGAGE  
PO BOX 30427  
LOS ANGELES CA 90030-0427

Total Amount Enclosed = \$  
(Please do not send cash)

708 0077438703 1 10000213838022244804412860427676 00000004845846140 9